UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,967	09/26/2005	Heinrich Franz Bartosik	N0484.70060US00	6112

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EXAMINER
PULLIAS, JESSE SCOTT

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action *Before the Filing of an Appeal Brief*	Application No.	Applicant(s)
	10/550,967	BARTOSIK ET AL.
	Examiner	Art Unit
	JESSE S. PULLIAS	2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>30 August 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>*1-17*</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Talivaldis Ivars Smits/
Primary Examiner, Art Unit 2626

/Jesse S. Pullias/
Examiner, Art Unit 2626

In response to applicant's arguments on page 9 that Friedland does not teach displaying the list of alternatives, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Lewis discloses "…display at least some of the plurality of entries as a list of alternatives to individual word parts, words, and/or word sequences of the recognized text", See Fig 4 of Lewis as well as page 3 of the Final Rejection 06/29/10. The Final Rejection relies upon Friedland to teach the limitations which are not taught by Mishelevich and Lewis, i.e. a list of alternatives is updated based on a number of times that the correction device previously corrected the word (Col 7 lines 10-25, Fig 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Mishelevich and Lewis such that the list of alternatives for at least some of the plurality of entries in the lexicon of alternatives displayed for a particular individual word is updated based, at least in part, on a number of times that the correction device previously corrected the particular individual word, in order to improve the ruling out of words and phrases, as suggested by Friedland (Col 1 lines 8-14), which could be expected to improve correction accuracy. Therefore, the argument on page 9 that Friedland does not teach displaying the list of alternatives does not show nonobviousness because it attacks Friedland individually when the rejection is based on a combination of references, and so is not persuasive.

On page 9, the Remarks also argue that the list of alternate text selections in Friedland does not "update the list of alternatives… based, at least in part, on a number of times that the correction device previously corrected the particular individual word part, word, and/or word sequence" as recited in claim 1, stating that "…in the system of Friedland, the number of excluded text phrases stored in memory (which are not included in the list of alternate text selections) may be limited (Friedland, col. 7, lines 10-25). However, for each input utterance, the list of alternate text selections in the system of Friedland is created using speech recognition and statistical modeling techniques and the excluded text phrases stored in memory are removed from the list, if present (Friedland, col. 5, lines 43-49)."

In response, the Remarks above appear to acknowledge that Friedland removes the excluded text phrases stored in memory from the list of alternatives, if present. Therefore, Friedland updates the list of alternatives by removing the excluded text phrases stored in memory from the list of alternatives, if present. In Friedland, the number of words "present" and stored in memory is based, at least in part, on a number of times that the correction device previously corrected the particular individual word. The algorithm in Fig 5, block 60 of Friedland determines if the "same location", i.e. same word or phrase previously corrected, is being currently corrected. If so, the algorithm processes steps 64B, 66, 54, and 55, in which the memory is checked to see if the stored text count is over a predetermined quantity (if so, the earliest one is discarded), the currently selected text is stored, and the current text items stored in the memory are excluded from the identified alternate text selection list. Since the number of words in the "stored text" of step 64B depends on the number of times the particular word has previously been corrected (i.e. same location, block 60), the number of words excluded from the list of alternate text selections depends on the number of times the word has been previously corrected. Therefore, in Friedland, the updating of the list of alternatives may be fairly considered to be "based, at least in part, on a number of times that the correction device previously corrected the particular individual word", as required by claim 1.

On page 9 the Remarks further assert, "Rather, the identity of the excluded text phrases stored in memory in the system of Friedland is dependent on the number of times that a phrase has been re-dictated".

In response, as noted above and shown by Fig 5 of Friedland, the quantity, as well as identity of the excluded text phrases depends on the number of times a phrase has been re-dictated, i.e. previously corrected, and therefore the quantity and identity of those words excluded from the list of alternatives depends on the number of times a phrase has been previously corrected.

On page 10, the Remarks argue that Friedland does not teach the list of alternatives is updated only when at least a predetermined degree of phonetic similarity exists between the particular individual word part, word, and/or word sequence and a text replacement in the at least one previous correction, because Friedland teaches limiting the number of "excluded" text phrases stored in memory during a correction sequence, and that step 64a of Fig 4 in Friedland is directed to an algorithm that identifies acoustic characteristics for a re-dictated utterance to determine whether the user is intending to change the text completely rather than correct it.

In response, as noted above, Friedland excluding words or phrases from the list of alternatives may be fairly considered "updating the list of alternatives" for the reasons noted above. As far as "only when at least a predetermined degree of phonetic similarity exists…" the algorithm in Fig 4 of Friedland is similar to that of Fig 5, except that instead of counting the number of stored text, the currently selected word acoustic characteristics are compared to the previously corrected word acoustic characteristics. If they are similar, the process advances to block 66 where the text is stored to be excluded from the list of alternatives. Therefore, Friedland teaches that the list of alternatives is updated only when at least a predetermined degree of phonetic similarity exists between the particular individual word part, word, and/or word sequence and a text replacement in the at least one previous correction, as in claim 2.

The arguments on page 11 regarding claim 7 are similar to those addressed above regarding claim 1, and are not persuasive for similar reasons.